

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 5:23-CR-192-M-RN-1

ERIC CHARLES WELTON,

Defendant.

MOTION HEARING
JANUARY 8, 2024
THE HONORABLE CHIEF JUDGE RICHARD E. MYERS II
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

On Behalf of the Government

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Wilmington, North Carolina

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TRANSCRIPT OF PROCEEDINGS

(Proceedings commenced at 3:02 p.m.)

THE COURT: All right. If the clerk would please call the case.

THE CLERK: United States of America versus Eric Charles Welton.

THE COURT: Counsel, please state your appearance for the record.

MS. WARLICK: Your Honor, Lori Warlick for the government.

MR. WILKINSON: Scott Wilkinson for Mr. Welton, Your Honor.

THE COURT: And, Mr. Wilkinson, I've read your motion in limine. It's well-founded. I'll grant it.

MR. WILKINSON: Thank you, sir.

THE COURT: We're here on motion for reconsideration. I'll hear you.

MR. WILKINSON: Your Honor, at this time I'd like to call Mr. Welton.

THE CLERK: Raise your right hand and state your full name for the record.

THE WITNESS: Eric Charles Welton.

(The defendant was placed under oath.)

THE COURT: Now, Mr. Welton, before you do

1 anything, I'm gonna apprise you of your Fifth Amendment
2 rights. You're under indictment by the United States.
3 You have the absolute right to remain silent if you
4 choose to do so. Your attorney has filed a motion in
5 limine to limit the scope of the testimony and the scope
6 of cross-examination in this case. That motion has been
7 granted.

8 However, be cautious because your statements
9 may open the door to cross-examination or additional
10 questions by the United States, and I will permit them
11 some cross-examination within the scope of the
12 conversation that we're having.

13 If it turns out that you open the door,
14 there's a possibility that they might be able to ask you
15 things about the substance of your offense if that comes
16 up as part of what your attorney's conversation with you
17 discusses, okay?

18 So I just want to caution you and tell you,
19 you have the absolute right to remain silent, but that
20 right can be waived. It's being waived now to have this
21 conversation. And I want you to be fully apprised of
22 any risk that you might face. Do you understand?

23 THE WITNESS: I understand, Your Honor.

24 THE COURT: All right. Mr. Wilkinson.

25 MR. WILKINSON: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY MR. WILKINSON:

3 Q. All right. Mr. Welton, you've already stated
4 your name. Can you tell the Court about your family?5 A. Yes. Let's see. My current relative --
6 immediate relative is -- living relative is my father,
7 Richard Welton. He lives in Charles City, Iowa. He is
8 currently living with my daughter, my adopted daughter,
9 Witchuda Eve Welton.10 And I am married. My wife lives in Thailand --
11 Pai, Thailand. We've been married about 18 years; so I
12 say roughly 20, but I think it's 18.13 Q. All right. And I know that you're in custody
14 now, but prior to being placed in custody, where were
15 you living?16 A. For about the last 18 years I live in Pai,
17 Thailand. It's up in northern Thailand, just south of
18 the Myanmar border.19 Q. Mr. Welton, are you presently taking any
20 medications?21 A. Yes. I take a number of medications, primarily
22 for heart disease and a little bit for PTSD.23 The heart medication's clopidogrel, and aspirin
24 for anticoagulant and blood thinners; I think losartan
25 and amlodipine for high blood pressure; rosuvastatin for

1 cholesterol. I believe those are the -- the heart
2 medicine.

3 And then fluoxetine and Topamax for PTSD. The
4 Topamax is primarily to control for nightmares.

5 Q. All right. Are you taking those medications as
6 they have been prescribed by a medical doctor?

7 A. Yes. Yes. I am taking them as they've been
8 prescribed. The most recent prescription was updated by
9 Dr. Price at Robert A. Deyton Detention Facility. And
10 I've been taking them as prescribed, as best provided by
11 the detention facilities. This morning they were
12 omitted by Onslow County, so...

13 Q. All right. So the medications you were supposed
14 to take this morning, Onslow County did not provide
15 those to you prior to coming to court?

16 A. That is correct.

17 Q. All right. Number one: The medications that you
18 do take, do they affect your ability to understand
19 what's going on? Why you're here today?

20 A. Not significantly, no.

21 Q. Does the absence of having taken those
22 medications this morning affect your ability to
23 understand why you're here and what's going on in court
24 today?

25 A. No.

1 Q. All right. Do you feel like your mind's clear
2 and you understand why you're here?

3 A. Yes.

4 Q. Okay. Mr. Welton, can you give the Court kind of
5 an overview of your education?

6 A. Sure. I graduated high school, salutatorian and
7 lots of honors and awards, class president, and all that
8 stuff.

9 Then I attended the University of Illinois at
10 Urbana-Champaign. I was a dual-degree candidate in the
11 College of Engineering. I started out in electrical
12 engineering. In the College of Liberal Arts, I was a
13 philosophy major.

14 After a little bit of time, I changed my College
15 of Engineering degree to computer science where I
16 graduated with honors. And then that was kind of my
17 backup degree.

18 In the liberal arts college, I moved to a
19 self-designed major where you put together your own
20 program, and I put together a program in a field that
21 became known as cognitive science. And in the process
22 of putting together that program, I affiliated myself
23 with a research institute and a computational
24 neuroscience lab. And I worked at the National Center
25 for Supercomputing Applications; worked on some

1 technology that you now know as the worldwide web; was
2 instrumental -- not instrumental but participatory in
3 some of the very fundamental tools there, one of which
4 you know as the browser.

5 And I was also working at a computational
6 neuroscience lab where I developed some computers and
7 evolved a synthetic nervous system for a biologically
8 realistic robot cockroach.

9 And after a couple years in there, I had amassed
10 enough credits for a third degree, but I opted to join
11 the Ph.D. program at the University of California in
12 San Diego in cognitive science.

13 I left that to chase the dot-com bubble in, I
14 believe, '97, and was in the private sector then for a
15 while.

16 Around 2000, I think, I put some ideas for a
17 dissertation at the University of British Columbia and
18 was considering reentering academics at that time, so
19 that's...

20 Q. All right. And so what degrees do you currently
21 hold?

22 A. I have a master's and two bachelor's.

23 Q. And in what fields?

24 A. Cognitive science and computer science, and then
25 the liberal arts degree titled "Information Processing

1 and Cognition Systems."

2 Q. All right. And you touched on it a little bit,
3 but can you give the Court an overview of your work
4 history as an adult?

5 A. Yeah. I'd been programming computers since 1982,
6 so I've had -- I've always had this skill, and it's been
7 timely. And with my exposure to the early days of the
8 Internet, since before it was deregulated, I've had a
9 set of in-demand skills. So I've always had access to
10 work; have worked for a wide variety of industries and
11 companies, and largely as a independent contractor in
12 all kinds of different modes.

13 My last standard office job was for Computer
14 Sciences Corporation in Arabia, in Saudi Arabia, and I
15 worked on biometrics, border control, and digital
16 identity system in Riyadh. And at that time I was
17 domiciled in Thailand, so I used the -- used the
18 earnings from that to build my current home.

19 And after that, I spent about a decade working in
20 core Internet traffic routing, did some start-ups, and
21 built and sold some companies.

22 Then, when my daughter completed her A-levels and
23 moved abroad to America, I switched gears and went back
24 to digital identity and biometrics and focused more on
25 nation-states in the global South and did a lot of

1 digital rights activism and was active in that, right up
2 until the time of my detention, where I was moving to
3 start some new companies and kind of get them launched
4 and was on a -- I guess, a business launch tour in
5 Africa and Europe when I got detained.

6 Q. All right. So what you just described is the
7 last work you were doing before you got detained.

8 A. Yes.

9 Q. Mr. Welton, do you know why we're in court today?
10 Do you understand what the purpose of this hearing is?

11 A. Yes.

12 Q. Can you explain to the Court your understanding?

13 A. So, at the hearing on the 13th, which was styled
14 as an arraignment, a question was raised as to my mental
15 competency.

16 On the 15th a finding was made to look into a
17 4241 evaluation -- to commit me for a 4241 evaluation.

18 When new counsel was appointed, we took a look at
19 that and then filed a motion to reconsider that. And
20 that motion then was granted, and an order to --
21 granting that reconsideration was filed, I think, on the
22 29th, allowing this hearing. And so here we are today.

23 Q. All right. Do you have an understanding of how
24 these proceedings against you began?

25 A. Yes. A superseding criminal complaint was filed,

1 I believe, on the 6th of December 2022.

2 Then, while I was on a business trip, my passport
3 was revoked. I was returned to Atlanta and arrested in
4 Atlanta. Then a hearing redirected me to this district
5 where I was indicted. And I've been in detention then,
6 and -- well, at Bladen and then at Onslow and...

7 Q. Okay. So you're talking about the different
8 jails that you've been --

9 A. Yeah.

10 Q. -- housed in --

11 A. Yeah.

12 Q. -- since you've been arrested?

13 A. Yeah.

14 Q. All right. You mentioned Atlanta.

15 A. Yeah.

16 Q. Do you understand what happened in Atlanta? Why
17 you were in Atlanta?

18 A. Yeah. I was -- I mean, I was arrested at Atlanta
19 Hartfields [sic] and then detained there. And then we
20 had the original detention hearing, and there was a
21 motion to move me -- to move me into this district
22 because the charges related to this district.

23 Q. Okay. And you mentioned that you've been
24 indicted.

25 A. Yes, in this district.

1 Q. What does the indictment mean?

2 A. The indictment describes the charges, Title --
3 Title 18, 115(a)(1)(B) and (e), which is threatening
4 communications.

5 Q. All right. And do you know what type of case
6 this is?

7 A. It's a criminal case.

8 Q. Do you understand the possible consequences of
9 the outcome of a criminal case?

10 A. Well, yeah. I'd be found guilty or innocent.

11 Q. If you went to a trial?

12 A. If we went to trial, yeah. Or, I mean, we could
13 have some nontrial resolution.

14 Q. Do you understand what entering into a plea
15 means?

16 A. Yeah. That would be a nontrial resolution.

17 Q. Do you have an understanding of the consequences
18 of being found guilty if you went to trial or of
19 entering a plea of guilty?

20 A. Yeah. I mean, then we'd get into a sentencing
21 phase, and it would be probably either an active
22 sentence or possibly some probation, that -- the
23 possible -- the worst possible situation, if both
24 charges were -- the maximum sentence for both charges is
25 10 years each, so a total of 20 years. And then there's

1 some additional fines and possible penalties.

2 Q. All right. Do you have an understanding of how a
3 sentence is determined in federal court?

4 A. There's a -- the federal sentencing guidelines,
5 and there's -- it considers your background, criminal
6 history. There's a baseline set of attributes for the
7 offense, and then there's a set of adjustments that
8 consider the individual circumstances and the victim.
9 And those are all considered to generate a set of levels
10 or points that are then converted into a sentence range
11 that's considered.

12 Q. All right. All right. As far as the people that
13 are in court today, do you understand the role and who
14 each of the people are?

15 A. I believe I do, yes.

16 Q. Can you explain that to the Court?

17 A. Well, we have the judge. The role of the judge
18 is to preside over the courtroom, to rule on matters of
19 law, and to provide a neutral environment in which the
20 two opposing sides can have this adversarial contest.

21 You have the prosecutor which represents the
22 state and brings the charges against the accused.

23 Then we have the defense counsel. You represent
24 the defendant, and we argue the case.

25 I don't see any representative of the -- an

1 investigatory arm. But prosecution generally has some
2 investigatory ability to dig into the matter at hand.

3 Q. Do you understand what the burden of proof is for
4 you to be found guilty in a criminal case?

5 A. As we've discussed that, the mathematician in me
6 bristles at that. I really want to say burden of
7 persuasion. But, yeah, the burden of proof falls on the
8 prosecution.

9 Q. All right. And what is that burden?

10 A. It's beyond a reasonable doubt for guilt or
11 innocence. Yes.

12 Q. All right. A couple other people in the
13 courtroom that are sitting more near to you, do you know
14 who these people are? Not personally but just the
15 roles.

16 A. I mean, the -- a little bit confused. I mean, I
17 know there's a court reporter and they take the records
18 and maintain the records. But, well, I'm not exactly
19 sure who all three are, no.

20 Q. Okay. All right. Do you know how I became to be
21 your attorney?

22 A. Yes. After some of the conflict with prior
23 counsel, once that was resolved, you were appointed
24 counsel.

25 Q. All right. Did there come a time when you were

1 still being represented by prior counsel that you became
2 either -- well, you became unwilling to work with your
3 prior counsel?

4 A. Yes. Yes. There was a breakdown in our
5 relationship. And we needed to move on and dissolve
6 that relationship, and that was a bit bumpy. So that's
7 what I think kind of led to all of this conflict.

8 Q. All right. But that conflict has now been
9 resolved?

10 A. Yes. That is correct.

11 Q. And how was that done?

12 A. It was done with the -- they withdrew, I believe,
13 using the matter of ethics as the trigger. So they
14 withdrew from counsel and then you were appointed as
15 substitute counsel.

16 Q. All right. In terms of assisting counsel, do you
17 feel like you are able to assist your current counsel in
18 preparing and presenting your defense?

19 A. I believe there's no problem there, yeah. And in
20 particular, the communications issues have been
21 resolved.

22 Q. All right. And how do you assist counsel in your
23 defense?

24 A. I provided copious documents. I can provide
25 access to witnesses and information about the case as

1 well as testify.

2 Q. As Judge Myers mentioned to you up front, you
3 have a Fifth Amendment right to remain silent, but you
4 understand that you can testify?

5 A. That is correct. Yes.

6 Q. Finally, Mr. Welton, do you believe that you are
7 presently suffering from a mental disease or defect that
8 renders you mentally incompetent?

9 A. No.

10 Q. Do you believe that it's necessary for you to be
11 transferred to another facility for a mental health
12 examination?

13 A. No, I do not.

14 MR. WILKINSON: Thank you, Mr. Welton. No
15 further questions, Your Honor.

16 THE COURT: Cross-examination.

17 MS. WARLICK: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. WARLICK:

20 Q. Good afternoon, Mr. Welton.

21 You're aware that a competency question isn't one
22 that's questioning whether you're a smart man, right?

23 A. Yes.

24 Q. Or that you're an educated man.

25 A. Right.

1 Q. No one's suggesting that you're not smart and
2 you're not educated.

3 A. Mm-hmm.

4 Q. I'd like to ask you some about the letters that
5 you sent to the Court.

6 A. Okay.

7 Q. So what's -- what's going on in Onslow County?

8 MR. WILKINSON: Objection, Your Honor.

9 MS. WARLICK: Your Honor, if he'd state the
10 basis, I can respond.

11 THE COURT: Basis for the objection?

12 MR. WILKINSON: First, Your Honor, it's
13 beyond the scope of direct. We didn't go into any of
14 those matters. It has been about his understanding of
15 the nature and consequences of these proceedings and his
16 ability to assist counsel. Those letters don't address
17 any of those issues.

18 MS. WARLICK: Your Honor, I would disagree.
19 The letters are pretty important for us, especially
20 because they relate to the resolution of the case. They
21 talk about that specifically. There was even a pro se
22 motion to continue regarding this, so...

23 THE COURT: You're talking about the pro se
24 letters that have been filed with the court? Are there
25 other letters I have not seen?

1 MS. WARLICK: Just the three that are on the
2 docket, Your Honor, including -- one I've called a
3 letter, but it's actually fashioned a motion.

4 THE COURT: Okay. Out of an abundance of
5 caution, I'm not gonna have him testify regarding them.
6 They are before the Court and I will consider them and
7 I'll take argument on them.

8 To the extent that there are specific lines
9 in the letters that you believe demonstrate cognitive
10 distortion, I will permit you to read those and ask him
11 what he understands them to mean.

12 MS. WARLICK: Thank you, Your Honor. May I
13 just have a moment, then?

14 BY MS. WARLICK:

15 Q. Okay. In your letter that's docket entry 26,
16 which is one that you signed on -- or it was submitted
17 back in November, you were talking about the candor --
18 your candor being greater than that of those of us that
19 are officers of the court.

20 A. Could you please read the line, please?

21 Q. Sure. "I'm concerned with clarifying the record,
22 perhaps even more than the final disposition of this
23 matter. The reason for this may seem odd, but where the
24 defense and the prosecution's duty of candor is limited
25 to the court, I perceive my duty of candor to extend

1 much further and I understand my role is far more
2 significant."

3 What do you think your role is?

4 A. The -- what I'm particularly concerned with there
5 is the -- when I became aware of the conditions of --
6 the conditions of the record regarding my detention; for
7 example, the statement that my daughter lived in
8 Thailand, which is just false.

9 These records are increasingly subject to digital
10 recording, mining, and extrapolation. When I approached
11 and discussed correction about how that might be
12 rectified so that that was just recorded as not being
13 true, as being in error, there seemed to be no
14 mechanism. The statement that was continually told to
15 me was, "That wouldn't change anything."

16 And to me, that wasn't important, whether it
17 would or wouldn't change the outcome of a detention
18 hearing. The fact that it was recorded on the record
19 and was wrong was in and of itself enough of a problem
20 for me. I wished that to be rectified. And the fact
21 that the officers of the Court with whom I was
22 discussing this continually said, "But that wouldn't
23 change anything, that wouldn't change," as they said --
24 and I don't want to speak for the judge, but they said
25 it wouldn't change the judge's behavior or the judge's

1 ruling on this. I said I -- that, to me, wasn't
2 important. The fact that it was written in the record
3 and it was false, I felt there should be some addendum,
4 just some statement saying this was found to be false,
5 that would be enough because that will live in
6 perpetuity.

7 Whether or not I am found to be guilty or
8 innocent is immaterial to the fact that the record
9 exists and has a false statement in it. As long as
10 there was some correction to that record, I would be
11 satisfied. Again, whether I'm found guilty or innocent
12 to me was immaterial, as long as the record -- it
13 contained an adjustment to that fallacious entry.
14 That's all that I meant by that.

15 Q. Okay. And I'll tell you -- is that the only
16 mistake that was in the documents from the detention
17 hearing?

18 A. No. There are quite a few.

19 Q. What else was there?

20 A. I would have to go through -- do I have that one
21 up here? Do I have that -- it's docket -- docket
22 entry...

23 Q. 15 --

24 A. 15, attachment 4, I believe.

25 Okay. That I have "a valid visa to live in

1 Thailand." If -- I believe that visa was no longer
2 valid at the time.

3 "My wife and child are Thai and live in
4 Thailand." My daughter is an American citizen, and she
5 lived at the time in Austin, Texas. In fact, I was
6 working -- okay.

7 "My wife was recently denied a visa to visit the
8 United States, which was the cause of my anger towards
9 the U.S. Consulate." That's not true.

10 "So she cannot come here while his case is
11 pending." There is some additional documentation that
12 is relevant and missing that might change the nature of
13 that, which I felt was worth discussing with prior
14 counsel. At the time, I was not able to do that.

15 "He was traveling through multiple countries in
16 Africa." That's not true.

17 "When he was refused an entry to an African
18 country because his passport had been revoked." I
19 wished to clarify that. And this is another issue. I
20 was trying to obtain access to the passport which was
21 seized in Osaka, which was a point of great contention
22 with prior counsel.

23 "I had recently taken a long trip to the U.S.
24 during the pandemic to see his father." That is an
25 issue that needs some clarification as well. It's an

1 odd statement relative to the circumstances. But again,
2 I don't believe -- let's see.

3 "So he may flee there." One of the things that I
4 had discussed -- "flee" is a bit odd in that context. I
5 had attempted to discuss with counsel at that time if
6 there were possible conditions of detention, of house
7 arrest, actually in Iowa, which I don't think "flee"
8 would be the right thing.

9 Yeah. Let's see. "He was somehow managing to
10 travel through multiple countries in Africa on a revoked
11 U.S. passport." That's fallacious.

12 So, "which shows knowledge of how to navigate
13 international borders without a valid passport." I
14 don't believe that that statement is accurate.

15 And possibly some concern about the
16 characterization of junk -- junk e-mails is something
17 I'd like to possibly delve into.

18 But those are several of the statements that I
19 think would, under analysis, have warranted an
20 investigation. But what I had hoped would come of it is
21 exactly a careful, mediated, sensible discussion of the
22 matter rather than anything else. I felt that these
23 things needed to be corrected, whether or not they would
24 actually change the fact of my detention. That's what I
25 had hoped to convey, that it was my commitment to having

1 those corrected, without regard to the changing of my --
2 the fact of my detention. My motivation was not
3 necessarily to change my detention or to have them speak
4 to my guilt or innocence. But those were all things I
5 felt were misstated or they painted a picture that were
6 quite different from what I think were -- were the
7 actual facts.

8 Q. So you also stated in this letter, you -- this is
9 a longer sentence, so let me -- bear with me, please.

10 A. Certainly.

11 Q. "Where the prosecution and defense are mere cogs
12 in the machine of the court it is the role of myself and
13 the party alleging insult to sculpt the character of our
14 nation and routinely advance the cause of human
15 interest."

16 And there's a next sentence. "We, the
17 defendants, are the women confined to the second tier of
18 society, the illegal lovers and bachelor companions
19 never recognized, the three-fifths of a person under the
20 policeman's boot."

21 What do you mean by that?

22 A. Do you recognize each of those references?

23 Q. Some of them, not all.

24 A. So there is a great machinery at work here, and I
25 think this is a part of it. This is -- this 4241

1 hearing is a piece of the machinery in action. And
2 there's a great deal to be said for it. I mean, it's
3 what makes this process work.

4 On the other hand, there's arguments that need to
5 be had. I don't know how familiar -- am I permitted to
6 ask a question?

7 THE COURT: Not right now. You can confer
8 with -- your counsel may redirect you if necessary. But
9 right now...

10 THE WITNESS: Okay.

11 THE COURT: To the extent you can, please
12 explain -- I understand the references, the
13 constitutional references.

14 THE WITNESS: So what this -- what this --

15 THE COURT: 19th, 14th -- I understand the
16 references as constitutional references.

17 THE WITNESS: Well, the -- the -- what this
18 speaks to is the issue of consular nonreviewability,
19 which shields the discussion of certain issues, such as
20 what happened in the consulate. There is no legal
21 remedy to address the actions in the second charge.
22 There's no vehicle by which to have that -- the
23 conversation.

24 This is an opportunity to have that
25 conversation, and it speaks to one of the values of

1 having these proceedings. Again, whether or not I'm
2 ultimately found guilty or innocent, I believe that
3 there's incredible value in a conversation and in the
4 generation of a record where issues that are otherwise
5 shielded and hidden through consular nonreviewability
6 can be brought to light, and --

7 BY MS. WARLICK:

8 Q. Do you think that this Court has the ability to
9 change consular nonreviewability?

10 A. I do not believe that this Court has the ability
11 to change consular nonreviewability, but I do believe
12 that this Court has the ability to record an official
13 record of a discussion about consular nonreviewability.

14 Q. Even though consular nonreviewability is not
15 really an issue in the charges.

16 A. It is not a -- it is not referenced in Title 18,
17 Section 115(a)(1)(B).

18 Q. Right. What would you like to say about consular
19 nonreviewability?

20 A. I do not think this --

21 MR. WILKINSON: Object --

22 THE WITNESS: -- is the time to --

23 MR. WILKINSON: This is --

24 THE COURT: Sustained --

25 THE WITNESS: -- discuss that.

1 THE COURT: Sustained. You don't answer the
2 question.

3 BY MS. WARLICK:

4 Q. You submitted a couple other documents to the
5 Court. I'm just gonna ask you about a couple of
6 statements in those, please.

7 You talk about your non-counsel defense network.
8 Who is that?

9 MR. WILKINSON: Your Honor, can I get a
10 reference to what --

11 MS. WARLICK: I'm sorry. He mentions it in
12 several letters, but I'm referring specifically to page
13 1 on document 29.

14 THE WITNESS: During the -- during the July
15 to November period, I struggled to get information about
16 my case. And when I was unable to get information about
17 my case, I had to reach out to friends and family to get
18 information. And so, yeah, the word just started
19 spreading that I needed help, I needed access to
20 information.

21 So through PACER records, people who had
22 facility with computers were able to find, through PACER
23 databases and other sources like that, they were able to
24 start to gather information. Some of that information
25 they attempted to send to me through the United States

1 Postal Service but that was blocked, incoming, by Onslow
2 County Sheriff.

3 BY MS. WARLICK:

4 Q. You talk about in document 29 corrupt law
5 enforcement and the U.S. Marshals in Georgia "expressed
6 a desire to effect my execution pretrial via third party
7 and with complete plausible deniability."

8 A. Correct.

9 Q. Who are those people?

10 A. The statement that was made, I believe, was,
11 "Gosh, it would be so great if we could just kill you
12 and get rid of your body and then get rid of all this
13 paperwork." And it was a particular Marshal. It was --
14 I think I said May 30th but I believe it was May 31st.
15 I didn't have a -- my dates may be off by a day. But,
16 yeah, that was -- that was the statement made.

17 And then there were some additional statements
18 made about ways they could do that, basically by calling
19 up friends in other agencies. I don't believe it's a
20 broad conspiracy or anything persecutory. I think that
21 was just somebody who -- that was rubbed the wrong way
22 and wanting to intimidate me and communicate threatening
23 sentiments to me.

24 Q. Communicate threats?

25 A. I believe that because it was relevant to my

1 case, I think it bears discussion in this context. But
2 yeah, it was a -- it was a Marshal. I didn't get his
3 name.

4 There was some problem booking me, so it was the
5 same -- and just today while I was in -- in the holding
6 cell, they had a problem. There's an HID device where
7 they take biometrics. And Marshal Winters, I believe,
8 was having problems booking somebody today and had
9 frustrations because it failed, the machine failed. And
10 as he walked by, I said, "Hey, did you have problems
11 booking somebody?" I said, "That was the same machine
12 that caused the frustration in the Marshal that
13 threatened to kill me." And he said, "Well, that's a
14 bit extreme." I said, "Yeah but, you know, it's -- it
15 was extreme."

16 But it was that same device. And it was failing
17 and repeatedly failing, and it caused me to be brought
18 repeatedly into the courtroom in Georgia.

19 And on the third and final day, the day after my
20 booking -- I mean after my hearing, after that happened,
21 that the frustration had grown so great that the Marshal
22 did make those comments.

23 And then there's some additional context
24 surrounding that, specifically surrounding medication.
25 And at the end of that day, I did wind up on a stretcher

1 and was in the emergency medical care that day. Yeah.

2 Q. Okay.

3 THE COURT: I would like some follow-up on
4 that. You say the context was surrounding medication,
5 and you ended up in emergency medical care. Did
6 somebody overmedicate you? Fail to medicate you? What
7 happened?

8 THE WITNESS: During medical intake I --
9 during medical intake, the -- when I came in, I had
10 planned to go on about an eight-week trip, so I had
11 eight weeks of medication with me. And when I came in,
12 that medication was catalogued and then promptly
13 forgotten.

14 The -- bear with me a little bit, if you
15 can. I've written these details down several times.
16 I've communicated them to prior counsel, current
17 counsel. We're having trouble obtaining the first
18 versions of those documents from prior counsel. Any
19 assistance from the Court in doing that would be greatly
20 appreciated.

21 Current counsel has another version of those
22 documents and I'm reassembling them from memory right
23 now, so I may miss some of the details, so -- and
24 please, if I -- if I don't get them right...

25 THE COURT: You don't have to be perfect.

1 It's the best of your recollection today.

2 THE WITNESS: Right. Because they have been
3 written down, and the -- so on that day, the short and
4 the long of it is I was transitioning from
5 benzodiazapines to Topamax at the direction of
6 Dr. Price. And as I was doing that, I was going into
7 benzodiazapine shock, and this is what led to -- because
8 I had just been forcibly withdrawn from benzodiazapines
9 because they had forgotten to process me at the
10 detention facility, even though I submitted a sick call
11 every day and they said, "Yeah, yeah, we'll see you.
12 Yeah, yeah, we'll see you. We'll have a doctor look at
13 you." They had just forgotten and -- for whatever
14 reason. I never saw a physician. I never saw a
15 psychiatrist. And a psychiatrist is required because of
16 the PTSD medications.

17 So, and because nobody ever looked at my
18 medications, even though I had them and I had the
19 prescriptions and everything, I went into shock. And
20 when I was in there in shock, that caused an emergency
21 consultation with Dr. Price. And once -- that's when I
22 -- he gave me the -- kind of a -- an emergency
23 prescription.

24 Once I kind of recovered from that, that's
25 what got me on this -- the Topamax. But the emergency

1 prescription that he wrote down was a stair-step
2 protocol, which -- this is actually important for
3 something a little bit later on, but -- it actually gets
4 into a -- kind of a -- a very complicated nightmare that
5 we're still dealing with to this day because the
6 medication issue hasn't been resolved completely.

7 But, yeah. At the end of the day, we got
8 onto a safe medication regimen by, say, June 1st, and
9 then we had stabilized and were in, kind of, a very
10 productive and stable medication solution by June 10th.
11 That was -- it was good. We had a very -- everything
12 was okay by June 10th. And that got messed up again
13 when I moved to USP Atlanta and there was a clerical
14 error with the Marshals again, and we haven't recovered
15 from that yet, so...

16 THE COURT: Thank you, sir.

17 MS. WARLICK: I just have a couple more
18 questions, Your Honor, if I may.

19 BY MS. WARLICK:

20 Q. At Onslow County, when they're giving you your
21 medicine, when do you take it?

22 A. In the morning and at night.

23 Q. And at night, both. Okay. Did you get your
24 medication last night?

25 A. Yes.

1 Q. Okay. There's only one other thing I wanted to
2 ask you about from what you filed, and that's about the
3 partnership. You referred in document 29 that -- or,
4 excuse me -- document 26, that there's a partnership
5 between your former counsel, Dysart and Willis, and
6 myself -- I'm Lori Warlick, if you don't know --
7 authoring a work of fiction as -- it will purchase your
8 freedom with a currency of lies.

9 A. Right.

10 Q. What does that mean to you?

11 A. What that means to me is I believe that I have a
12 unique perspective on the events, and that I should have
13 some input or somebody should ask me questions like,
14 "What happened?" And that I should not be told what
15 happened, that I should have some input or people should
16 ask me questions about it.

17 Q. Which people?

18 A. Prior counsel.

19 I understand that you have a theory of the case.
20 But, for example, I -- it's very, very important to me,
21 the -- the path home. The events in charge number 2 are
22 very, very important to me, even though they're less
23 important, perhaps, to the Eastern District. I need to
24 understand how they both play together. And I felt that
25 having those facts explained to me and having huge areas

1 just discounted and being told what was important, what
2 was not important, was unacceptable; that I needed to
3 understand how the case, the jurisdictions, and
4 everything played together rather than just being told
5 what I was supposed to believe and what didn't happen.

6 Some things very important happened at the
7 consulate, and they need to be in the record. Again,
8 whether there's -- I'm found guilty or innocent to me is
9 more important -- is less important than whether those
10 facts are recorded in the record. And to be told that I
11 just have to ignore them and pretend they didn't happen
12 is not something I can live with.

13 MS. WARLICK: No further questions, Your
14 Honor.

15 THE COURT: Redirect.

16 MR. WILKINSON: No, Your Honor. Thank you.

17 THE COURT: Thank you, sir. You may step
18 down.

19 MR. WILKINSON: Nothing further from
20 Mr. Welton, Your Honor.

21 THE COURT: Ms. Warlick, does the United
22 States wish to put on any evidence?

23 MS. WARLICK: No, Your Honor. Just what's
24 already been filed.

25 THE COURT: Okay. Mr. Wilkinson, it's your

1 motion. I'll hear from you.

2 MR. WILKINSON: Your Honor, just a couple
3 things. And I've already provided the court reporter
4 with some of the cases I want to refer to, so I won't
5 spell each of them. But the principal case that I've
6 relied on, and they all basically cover the same ground,
7 is United States versus Bernard, 708 F.3d 583. It's a
8 Fourth Circuit case from 2013.

9 Where we are is, in my view, kind of a
10 rehearing of the reasonable cause standard under
11 4241(a), and whether the Court believes that Mr. Welton
12 is presently suffering from mental disease or defect
13 that renders him minimally competent to a point, to an
14 extent. One is that he's unable to understand the
15 nature and consequences of these proceedings, and the
16 second is unable to assist counsel in preparing and
17 presenting his defense.

18 That determination, as a lot of others, are
19 left to the sound discretion of the Court because you
20 have the ability to -- to make a more informed decision
21 about a defendant's competence or incompetence.

22 There are in Bernard and a number of the
23 cases that are cited in there, they talk about how
24 reasonable cause can be determined or established.
25 Basically four different areas. One is the behavioral

1 history, evidence of irrational behavior, which I take
2 from the Court's order, really, referred to the letters
3 and some of the passages that were read today to
4 Mr. Welton.

5 I tried desperately to find out because I
6 wasn't present at the hearing on December 13th -- I
7 tried to find out from every source I could possibly
8 talk to. Ms. Warlick wasn't there. I talked with
9 Charity Wilson who covered the hearing for her. I
10 talked with the court reporter, Ms. Kramer, and I
11 attempted on any number of occasions to talk to prior
12 counsel, and to this day have no idea what the Court was
13 told or what prior counsel represented.

14 But I take it from the order that not only
15 the nature of the charges themselves but the letters
16 caused the Court some concern.

17 I will have to say I met with Mr. Welton a
18 number of times. I do think there's an aspect of some
19 of his letters that's based on the kind of theory that
20 loud noises get heard. I think the southern version of
21 that is probably "The squeaky wheel gets the grease."
22 To the extent that making outlandish claims and
23 statements get heard, get someone's attention, is a
24 theory that a lot of people ascribe to. It stands in
25 stark contrast to the decorum in a federal court, the

1 way that attorneys and even defendants are expected to
2 conduct themselves. So when you see outlandish
3 statements and flowery language that Mr. Welton used in
4 some of those letters, it does cause some concern.

5 So I've tried to really focus on what I
6 perceived to be the Court's concerns and tried to
7 address those.

8 The other factors, Your Honor, really, the
9 next one is the defendant's demeanor in court. From
10 what I understand, this is really the only time the
11 Court's been able to hear and listen to Mr. Welton
12 himself. And I wanted the Court to have that
13 opportunity, firsthand observations of him and how he
14 responds to questions and how he kind of thinks through
15 things. It's different from the way that I think. As a
16 trained attorney, I think a certain way. I think all
17 the attorneys probably do. Given his background, his
18 education, his training, his work history, he thinks
19 about things differently, he processes things
20 differently. There's nothing wrong with that. It's
21 just different. And I think that's a lot -- in terms of
22 an explanation -- a lot of what goes into explaining
23 some of the things in those letters.

24 The third, Your Honor, is medical opinions,
25 which we don't have any in this case.

1 And then the last is the attorney's
2 representations concerning his client's competency. All
3 those are mentioned in Bernard.

4 Your Honor, I've met with Mr. Welton a
5 number of times. My first meeting -- well, I filed my
6 notice of appearance on December 19th. I met with him
7 on December 21st, December 28th, January 2nd, January
8 5th, and January 6th. I have over ten hours of just
9 meeting with Mr. Welton to discuss this very issue. I
10 don't have discovery yet. I'm not complaining about it.
11 But my focus since I got involved in this case was to
12 deal with this competency issue. So I've met with him a
13 lot and dealt with him a lot.

14 I understood -- I mean, I read the letters
15 and it raised questions for me as well, not just the
16 nature of how he wrote things but the substance of it.
17 I heard all the stories and his explanations before.
18 They are lengthy, which is why I didn't really want to
19 get into them, because evidence of irrational
20 behavior -- and I'm not arguing that it's rational or
21 irrational. Just assuming it is irrational I don't
22 think is an important of a function for the Court as
23 having the opportunity to view him and to listen to him
24 and how he responds to questions and how he recollects
25 events and dates and things that happened. If he

1 believes that someone -- if he subjectively believes
2 that someone had threatened him, then he wrote about it.
3 I said in my motion that the comment about him
4 considering those matters more important than perhaps a
5 resolution, the same went to his -- his personality that
6 prioritizes truth over a lot of other things. I don't
7 find any fault with that. But again, the way he
8 expressed it is different from the way attorneys would
9 express it, maybe different from some of the language
10 that we would use. But I don't find any fault in why he
11 was having an -- why he was making a statement.

12 But again, I'd ask the Court to focus more
13 on your personal observations of him than necessarily
14 the assumptions that we can make from the letters and
15 how he wrote stuff.

16 Your Honor, the last thing -- well, two
17 things. His testimony here in court today, I'd submit
18 to the Court that he exhibited competence by
19 demonstrating not only an understanding of the nature
20 and consequences of these proceedings but also how he
21 can assist counsel in preparing and presenting his
22 defense, and he did it with clear, concise answers.
23 Some of his answers to the questions that the government
24 posed to him required more of a background, but
25 otherwise he answered every question in clear and

1 concise ways.

2 The last thing I'd like to mention to the
3 Court, there is a Supreme Court case, Godinez versus
4 Moran -- G-O-D-I-N-E-Z, versus Moran, M-O-R-A-N -- 509
5 U.S. 389 (1993), where the Supreme Court says, and I
6 quote, "The legal test for competency is whether the
7 defendant has sufficient present ability to consult with
8 his lawyer with a reasonable degree of rational
9 understanding and whether he has a rational as well as a
10 factual understanding of the proceedings against him,"
11 end quote.

12 And then the Court went on to say, quote,
13 "This formulation focuses on a particular level of
14 mental functioning, and a defendant's understanding of
15 the proceedings is the crucial component," end quote.

16 Your Honor, again, from the questions that
17 were presented to him, the answers that he gave, I don't
18 have any doubt. I ask the Court to also find that he
19 has a clear and concise understanding of the nature and
20 consequences of these proceedings, not just today but
21 the criminal case in total. He has demonstrated through
22 his answers an ability to not only understand how to but
23 to be able to assist his current counsel in presenting
24 his defense.

25 Under those circumstances, Your Honor, I'd

1 ask the Court to find that there is not a reasonable
2 cause to question his mental competence. Thank you,
3 Your Honor.

4 THE COURT: Thank you, counsel.

5 I'll hear from the United States,
6 Ms. Warlick.

7 MS. WARLICK: Thank you, Your Honor.

8 First of all, I kind of have to say this
9 feels a little bit more like the kind of hearing we
10 would likely have after Butner rendered its analysis.
11 The statute says that the Court shall order the
12 defendant's competency evaluated upon his own -- the
13 Court's own, sort of, realization or finding of
14 reasonable cause. So once that reasonable cause is
15 there, it's only an evaluation that's happening. It's
16 sending the defendant for an evaluation, and the doctors
17 at Butner could very well come back and say, "We have
18 this issue or that issue, but ultimately he is
19 competent," and then we proceed.

20 So it doesn't provide -- the statute, to me,
21 doesn't really contemplate a -- a large breadth of
22 opportunity for the defendant to try to challenge when
23 -- reasonable cause when the documents are already in
24 the record, are at least part of the information that's
25 giving the Court this reasonable cause to believe that.

1 Now, that said, I do think that there's
2 reasonable cause here. I do think the three pro se
3 filings are sort of illustrative of the defendant's
4 state of mind right now. I'm not playing any of the
5 evidence from the underlying charges because, again, as
6 counsel stated -- mentioned, he doesn't have the
7 discovery yet. And you've already, Your Honor,
8 precluded the cross-examination of the defendant.

9 But I will say that there's -- I will
10 proffer that there's some consistency in terms of the
11 defendant's feeling that "If you're not with me, you're
12 against me," and that because he wasn't -- he thinks
13 everything is personal, that -- and that it leads to
14 somewhat of a hyperfixation on those issues which makes
15 me concerned, reasonably concerned about the ability to
16 assist his counsel.

17 He's obviously educated and smart, but I
18 don't know that there's -- I don't know that the doctors
19 at Butner would find him not competent. But the
20 question -- that's not a ripe question before the Court
21 right now. It's simply the reasonable cause. And I
22 think Your Honor already explained that in the order you
23 entered, that as a -- I will say as in the criminal
24 complaint, some of the quotations from the threats that
25 were -- that we've alleged he committed against public

1 officials, that, for example, being inundated by e-mails
2 means someone is inundating him specifically, purposely,
3 with e-mails. And now, you know, the county jail is
4 purposely doing something to him; the defense attorney
5 that previously represented him was wronging him. And
6 so I'm not -- I'm not assured that we won't be back here
7 again soon.

8 So that's why I would -- have opposed this
9 question or, at least, been supportive if I had been
10 able to attend the December hearing. Thank you.

11 THE COURT: Thank you, Ms. Warlick.

12 MR. WILKINSON: Your Honor, may I briefly?

13 THE COURT: You may.

14 MR. WILKINSON: Your Honor, three things.

15 Number one, I think this is exactly the type
16 of hearing that should have been held on the 13th. It
17 wasn't.

18 The other thing is this is not a costless
19 effort for the defendant. He's gonna go away for some
20 period of time. There's gonna be rescheduling of a
21 competency hearing. That's gonna take some more time.

22 Just from a guideline standpoint, Your
23 Honor, we received a copy of the plea agreement that the
24 government sent to prior counsel and the stipulations
25 that were in there. And what I'm about to say doesn't

1 take into account 3553(a) factors, departures, issues,
2 that kind of stuff. Just based on the guidelines, his
3 base offense level is a 12. If you account for all of
4 the enhancements that go into it, he ends up being at a
5 14 with a criminal history category of I.

6 If you add a zero-point offender reduction,
7 then he's a 12. Base offense level -- or total offense
8 level of 12 and criminal history category of I. That
9 results in 10 to 16 months.

10 He's already been in custody for seven and a
11 half months. The 23rd of this month will be eight
12 months. Given the nature of the hearing, who knows when
13 he's gonna actually go to Butner, but once he gets
14 there, that's a month, 30 days that the Court has. And
15 then there's the scheduling and all those issues.

16 So it's not costless in the sense that his
17 entire guideline range, at least, can be eaten up by
18 this process alone.

19 So there is a consequence to the defendant
20 and a reason for him not to go. But again, the legal
21 standard, the legal test that the Court has to analyze
22 is whether he's suffering from mental disease or defect
23 that affects two things: his ability to understand the
24 nature and consequences of these proceedings, and his
25 ability to assist his counsel. And on those terms,

1 which are the only terms I submit the Court should be
2 considering, his testimony today, your observations of
3 him, his responses to the questions that he's asked,
4 show that he is able to do both of those things.

5 Thank you, Your Honor.

6 THE COURT: Thank you, counsel.

7 MS. WARLICK: Your Honor, may I have one
8 brief moment?

9 THE COURT: You may.

10 MS. WARLICK: My concern is not sending the
11 defendant to be evaluated for something that reasonably
12 is warranted renders any other hearings void -- or
13 voidable, if you will -- and we're gonna end up on
14 appeal that he should have been found not competent or
15 that his plea was, you know -- if I stood up in an
16 arraignment right now and said "Do you have any reasons
17 to doubt the defendant's competency or ability to enter
18 a plea," I'd have to say "yes."

19 So I understand you're in a rock and a hard
20 place -- between a rock and a hard place, Your Honor.
21 But I'll also point out that the two standards
22 mentioned -- that the defendant must be able to
23 understand the proceedings and be assistant with
24 counsel, it's an "or," he's got to be able to do...

25 THE COURT: I understand.

1 MS. WARLICK: Thank you, Your Honor.

2 THE COURT: I'll work backwards. As to the
3 issue of voidability of future proceedings, the
4 defendant has come in and made these arguments before
5 the Court. For him to come back later and argue that
6 the Court was wrong in light of his own arguments I
7 think raises serious questions of waiver, and the
8 Fourth Circuit would not look kindly on that. Nor would
9 I. So I think that the question then becomes -- I will
10 tell you that the reason that I was concerned before is
11 post-traumatic stress disorder, nature of the charges,
12 and statements within the letters that in some light can
13 be construed as paranoid, and then a motion to withdraw
14 by counsel because this defendant alleged that there was
15 a conspiracy between the government and counsel against
16 him. With all those things before the Court, that was
17 the basis for the Court's initial order.

18 The hearing today has persuaded the Court
19 that as he sits here today, I no longer have reasonable
20 cause to believe that he may be presently suffering from
21 mental disease or defect rendering him mentally
22 incompetent to the extent that he is unable to
23 understand the nature and consequences of the proceeding
24 against him or to assist properly in his defense. As we
25 sit here today, and under his current medication regime,

1 it appears to the Court that he has been able to fully
2 interact with Mr. Wilkinson, his current counsel, that
3 he understands the nature of the proceedings, he
4 explained them to the Court adequately. I've had
5 defendants in here who I think are much closer to that
6 margin.

7 None of this is to suggest anything beyond
8 the nature of this hearing today. And I'm sure there
9 will be conversations as to guilt or innocence and his
10 mental state perhaps at the time that he engaged in the
11 behavior he engaged in. Those are separate questions
12 from his capacity as we sit here today.

13 I find that Mr. Wilkinson has presented
14 sufficient evidence to the Court today to warrant
15 reconsideration. The Court stayed the prior order
16 pending this hearing. On the basis of the hearing that
17 took place today, I find that defendant has demonstrated
18 to the Court that he is able to understand the nature
19 and consequences of the proceeding against him and I
20 accept Mr. Wilkinson's statements that over the course
21 of ten hours of meeting with Mr. Wilkinson, that that
22 relationship is sufficiently intact, that he is able to
23 sufficiently assist in his defense.

24 Now, that's just competency. There's a lot
25 of road from here to the ultimate resolution of this

1 case. And I want to be clear what the Court's ruling is
2 today. Now, Mr. Wilkinson, I'm accepting your position
3 as an officer of the Court that those ten hours have
4 been sufficiently productive, that you have no concerns.
5 Is that correct?

6 MR. WILKINSON: Absolutely correct, Your
7 Honor.

8 THE COURT: All right. I will not order him
9 evaluated. I particularly note the nature of the
10 consequence of having him evaluated can often involve 90
11 to 120 days, which would take him into the meat of what
12 the Court now understands to be a potential guideline
13 sentence, and I don't want to risk that to the
14 defendant's detriment. It does place a thumb on the
15 scale.

16 Anything further, Mr. Wilkinson?

17 MR. WILKINSON: No, Your Honor. Thank you.

18 THE COURT: Anything further, Ms. Warlick?

19 MS. WARLICK: No, Your Honor.

20 THE COURT: All right.

21 (Proceedings concluded at 4:04 p.m.)
22
23
24
25

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/Risa A. Kramer

3/26/2024

Risa A. Kramer, RMR, CRR

Date